



ZONING BOARD OF ADJUSTMENT & APPEALS

AGENDA REQUEST

AGENDA OF:	8/1/07	AGENDA REQUEST NO:	III A
INITIATED BY:	TRAVIS TANNER, AICP, SENIOR PLANNER <i>Travis Tanner</i>	RESPONSIBLE DEPARTMENT:	PLANNING
PRESENTED BY:	TRAVIS TANNER, AICP, SENIOR PLANNER	ASSISTANT PLANNING DIRECTOR:	DOUGLAS P. SCHOMBURG, AICP <i>Douglas P. Schomburg</i>
		ADDITIONAL DEPARTMENT HEAD (S):	N/A
SUBJECT / PROCEEDING:	REQUESTED VARIANCES TO SETBACKS ALONG US 59 AND SOUTH PARKWAY BOULEVARD FOR PROPERTY LOCATED AT 15035 SOUTHWEST FREEWAY AND AT 1605 SOUTH PARKWAY, IN THE BUSINESS OFFICE (B-O) DISTRICT PUBLIC HEARING, CONSIDERATION AND ACTION		
EXHIBITS:	STAFF REPORT, VICINITY MAP, ZONING/PROPERTY LINES EXHIBIT, AERIAL PHOTOGRAPH, PROPOSED SITE PLAN, PROPOSED ELEVATIONS, SITE PHOTOS, RECORDED PLAT, METES AND BOUNDS DESCRIPTION, VARIANCE APPLICATION, PUBLIC HEARING NOTICE		
CLEARANCES		APPROVAL	
LEGAL:	N/A	DIRECTOR OF PLANNING:	SABINE SOMERS-KUENZEL, AICP
RECOMMENDED ACTION			
The staff does not typically make recommendations regarding variances.			
EXECUTIVE SUMMARY			
<p>This case concerns requested variances to the setbacks along US 59 and South Parkway Boulevard for property located at 15035 Southwest Freeway and at 1605 South Parkway, in the Business Office (B-O) district. The two sites are adjacent to each other, sharing an interior property line and fronting on US 59 and South Parkway Boulevard, respectively. Each site is currently independent of the other, and each contains a relatively large office building with insufficient surface parking. The applicant's goal is to combine both sites in a redevelop project where the Noel building would remain and the Noel parking lot would be removed and replaced with a medical office building. To provide parking for both the existing and proposed building, the office building on the South Parkway site would be demolished and replaced with a parking garage.</p> <p>The sites are both legally nonconforming because the buildings do not meet current setbacks. The properties were developed in 1980 (1605 South Parkway) and 1985 (15035 Southwest Freeway), prior to current zoning regulations. The sites are also significantly under-parked to accommodate the magnitude of the buildings. The requested variances would allow construction to the original setbacks, which could bring the properties into compliance with current parking regulations. The applicants indicate that improving the sites is not feasible</p>			

without first obtaining variances.

The Zoning Board of Adjustment will recall two previous meetings in which variances were proposed for 15035 Southwest Freeway, (February 2006 and November 2006). The applicant requested variances to the setbacks in order to build a garage that would bring the site into compliance with the parking regulations. A decision was tabled at both meetings, citing the need for more information from the applicant on the proposed construction in order to address the concerns of the neighbors. That item remains tabled to date.

This is a separate variance case involving two properties (15035 Southwest Freeway and 1605 South Parkway). A proposed site plan and elevations are attached. In this instance, the applicants and City staff have met with the Sugar Creek Homes Association manager. The association has expressed support of the variances under an attached list of conditions. The Board has the ability to grant the variances with specific conditions that can mitigate the impact of a less restrictive setback.

CC: Sheila Liccketto, sliccketto@pipmed.com

Kristin Jones, kjones@noelfurniture.com

File No. 8097

STAFF REPORT***Background Information:***

- **1605 South Parkway Boulevard:** This property was originally developed in 1980, prior to the current Zoning Regulations (Ch. 2, Dev. Code, adopted in '97). As a result, it was not developed in accordance with a current setback of 25' along South Parkway or with the Parking Regulations. Rather, it was developed to a setback of 15'. The applicants have requested a variance of 10' in order to build to the original setback of 15'. The reason is to construct a parking garage facility to serve a new office building and the existing Noel building at 15035 Southwest Freeway and bring it into compliance with the Parking Regulations (Ch. 2, Art. V), which were not present at the time of development. Elevations of the proposed construction (parking garage) at 1605 South Parkway are attached. A more detailed description of the facility is also included.
- **15035 Southwest Freeway:** This property was the subject of a previous variance case that went before the Board on two separate occasions in 2006. The case was tabled on both occasions in which the Board requested more information from the applicant on their proposed construction in order to address the neighbors' issues. The property was developed in 1985, also before the existing Zoning. The site was developed for furniture retail purposes and does not comply with the setbacks or parking per the current Zoning Regulations. The setback along the US 59 property line is 40', although the site was originally developed to a setback of 25', indicated on the plat. In this case a variance of 15' is requested to build to the original setback. The variance would facilitate a new office building on the site, to the south of the existing Noel building. The proposed parking facility at 1605 South Parkway would adequately serve the new office and the existing building, which would not change. Elevations of the new office and existing Noel building are attached. A detailed account of the various aspects of the proposed office is also provided.

Details of Proposed Construction:

- **1605 South Parkway:** Construction of a parking garage is planned for this site. The garage would include 160 spaces and would bring the two sites into compliance with the Parking Regulations in Chapter 2, Art. V, which require one space for every 250 square feet of office and a space for every 200 square feet in a clinic-type use. The garage would combine with the 23 surface spaces on the Noel site for a total of 183 parking spaces provided. Allowing for a reasonable amount of square footage that is typically exempt from required parking calculation, the two office buildings will be limited to 16,450 square feet of clinic use and 20,000 square feet of office use.
-
- The parking structure would be two stories and a total of 30' in height to accommodate a 6' parapet to screen parking on the top level. The garage would be entirely screened with a solid masonry wall facing both South Parkway and David Searles Drive. Lighting would be directed away from the nearby residential district and contained within the garage. The facility would meet the Building Finish Standards (Ch. 2, Art. X) and exterior finishes would be compatible with the proposed new office building. In addition, a 6' continuous

hedge will screen the facility along South Parkway. The garage would not have any signs and will be constructed for use by the 15035 Southwest Freeway site only. It will reportedly be secured at night and on weekends, will be developed simultaneously with the new office, and will have no mechanical equipment visible from South Parkway or David Searles.

- **15035 Southwest Freeway:** On this property the Noel building will remain as is, not increasing in height. A new office building is proposed to the south of the existing building. The building will be a maximum of 18,000 square feet, with three floors of office use above the existing surface parking. The building will not exceed 56' in height. Ground level parking will be screened by a solid masonry wall facing David Searles and South Parkway. Windows will not reflect light toward the Sugar Creek subdivision. No mechanical equipment will be visible from David Searles or South Parkway and the building will reportedly not have any neon signage.

Sugar Creek Neighborhood Input:

The applicant and staff has met with the Sugar Creek Homes Association in order to address any issues prior to the variance process. After gathering input, Gary Sanford, General Manager for Sugar Creek, has submitted a list to City staff on behalf of the neighborhood. According to Mr. Sanford, the Sugar Creek Homes Association is supportive of the variances under the following conditions:

- That no driveways be permitted on South Parkway or David Searles
- That the existing live oak trees on David Searles will either be preserved or replaced with 6"-caliper live oaks
- That the existing Noel building will not be increased in height
- That the proposed new office building at 15035 Southwest Freeway will be a maximum of 18,000 square feet in floor area
- That the new office will be a maximum of three (3) stories of office space, with surface parking below
- That the office building will have a maximum height of 56'
- That ground level parking beneath the office building will be screened with a solid masonry wall facing David Searles and South Parkway and that the materials for the wall will be consistent with those used in the construction of the building
- That windows in the new office building will not reflect light on to the residential district to the southeast
- That mechanical equipment related to the proposed office construction will not be visible from South Parkway or David Searles
- That there will be no signage facing the residential district to the southeast and no neon signage whatsoever
- That the parking garage will contain a maximum of 180 spaces
- That the maximum height of the garage facility will be 30', including a 6' parapet to accommodate screening of roof-level parking on all sides
- That all parking garage lighting will be contained within the structure and directed down and away from the residential district to the southeast
- That the exterior finish of the garage facility will be compatible with the proposed office building
- That any lighting necessary on the exterior of the garage will be "uplighting" in the shrubs surrounding and screening the parking garage

- That all levels of the garage will have a solid masonry wall facing South Parkway and David Searles
- That the garage facility will not contain signage
- That the parking garage will be for use by the buildings located at 15035 Southwest Freeway only
- That the parking garage will include secured entrances and exits
- That the proposed office building will be constructed at the same time as the garage
- That no mechanical equipment associated with the garage will be visible from South Parkway or David Searles
- That the site/s be developed in accordance with the attached site plan and elevations

Sec. 2-44. Public Hearing.

After receiving a proper application, the Director will schedule a public hearing on the variance before the Board. At least ten days prior to the hearing, written notice of the time and place of the hearing must be given to the person filing the appeal and to the owners of adjoining properties within 200 feet in the same manner in which adjoining properties are given notice of a hearing before the Commission for a change in zoning classification.

A public hearing has been scheduled. Notice of the hearing was published in a newspaper of general circulation. All property owners within 200' of the site/s were notified. In addition, a courtesy notification sign was placed at the site. At the time of this report, staff has received four phone calls/emails regarding the variance. There were three requests for general information and one caller in support of the variance.

Points for Consideration/Variance Criteria:

Sec. 2-45. Board Decision.

After the public hearing, the Board may, by the affirmative vote of 75% of its members, grant a variance to the terms of these zoning regulations if the Board finds:

(a) That there are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to the land or building and do not apply generally to land or buildings in the same zoning district or neighborhood, and that the circumstances or conditions are such that the strict application of the provisions of these regulations would deprive the applicant of the reasonable use of such land or building; and

Both sites were developed prior to the current zoning regulations and with less restrictive setbacks. In addition, both sites are extremely narrow when compared with other nonresidential sites in the immediate area. These things could potentially be interpreted as special circumstances by the Board.

(b) That the granting of the variance will not be detrimental to the public welfare or injurious to the property or improvements in the district or neighborhood in which the property is located; and

While the Board will determine if granting the variance will be detrimental to the public welfare, the applicant has met with Sugar Creek neighborhood representatives, who support the variance under certain conditions, which have been provided to City staff in writing and could be included in the granting of a variance. No safety issues have been identified by staff.

(c) That the granting of the variance is necessary for the reasonable use of the land or Building and is the minimum variance that will accomplish this purpose; and

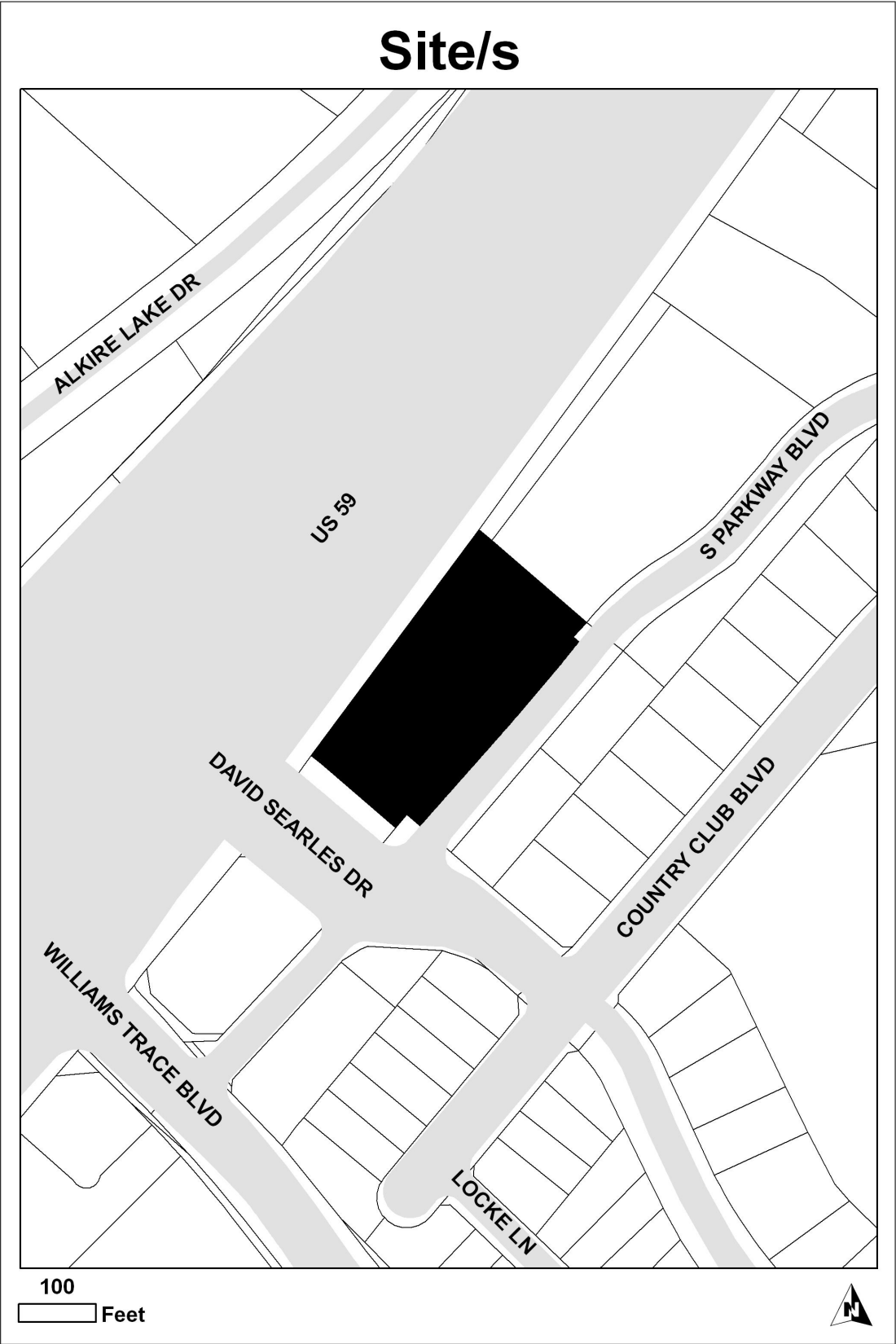
Redevelopment of the property could be difficult in light of the extreme narrowness of the sites and the setbacks of 40' along US 59 and 25' along South Parkway. The setbacks would result in a relatively thin strip of developable area. The conditions proposed by the neighborhood for the parking garage facility render it the minimum size in order for the site to meet the parking regulations.

(d) That literal enforcement and strict application of the provisions of these zoning regulations will result in an unnecessary hardship inconsistent with the general provisions and intent of these zoning regulations and that, in granting the variance, the spirit of these zoning regulations will be preserved and substantial justice done.

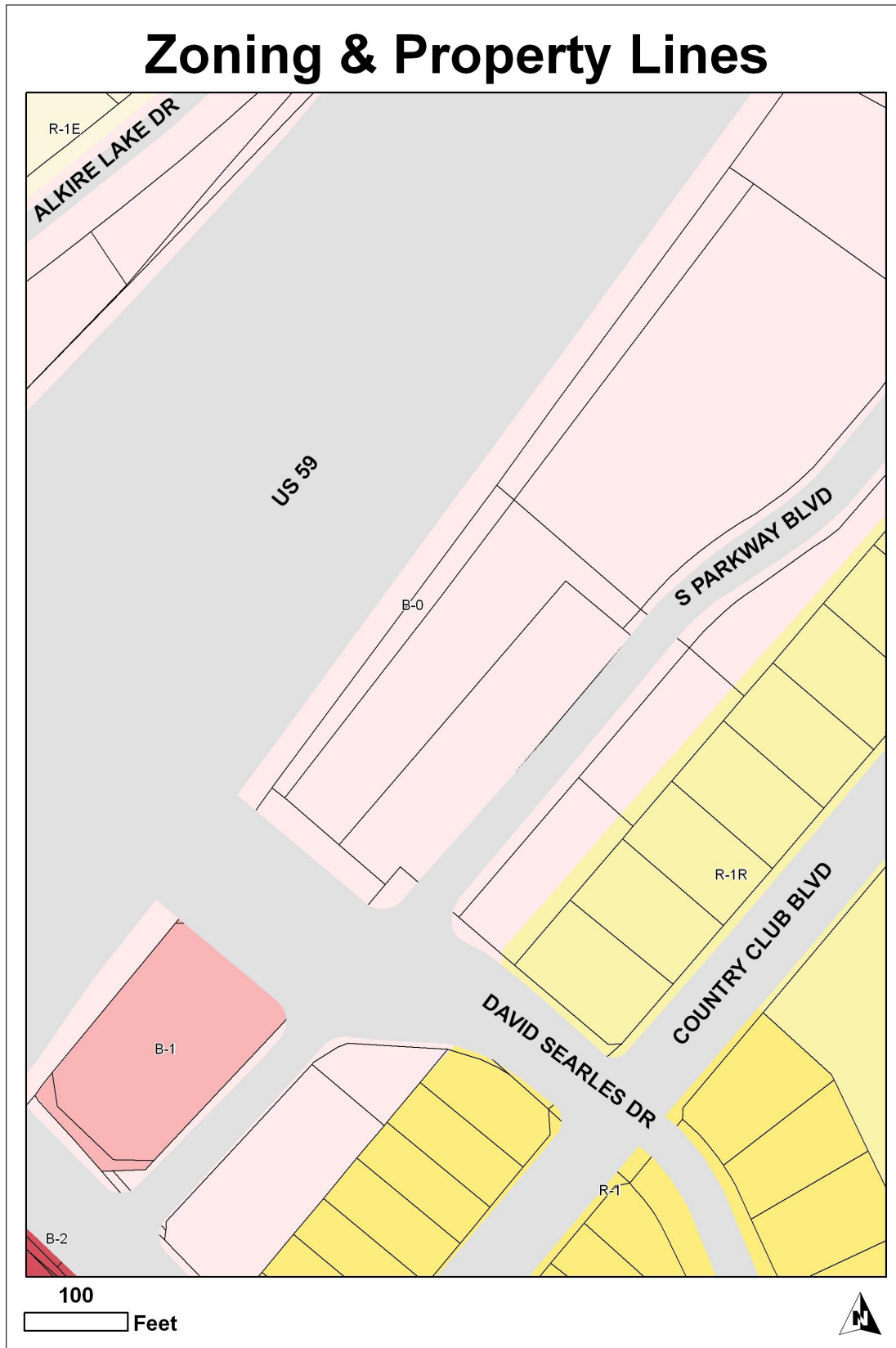
The Board will determine if a hardship exists. The narrowness of the sites and development prior to the current zoning regulations could potentially be considered in determining if a hardship exists.

The Board may elect to grant the variances under the attached list of conditions provided to staff by the neighborhood. In addition, the site layout drawing submitted by the applicant can be included as a condition by the Board

Vicinity Map:

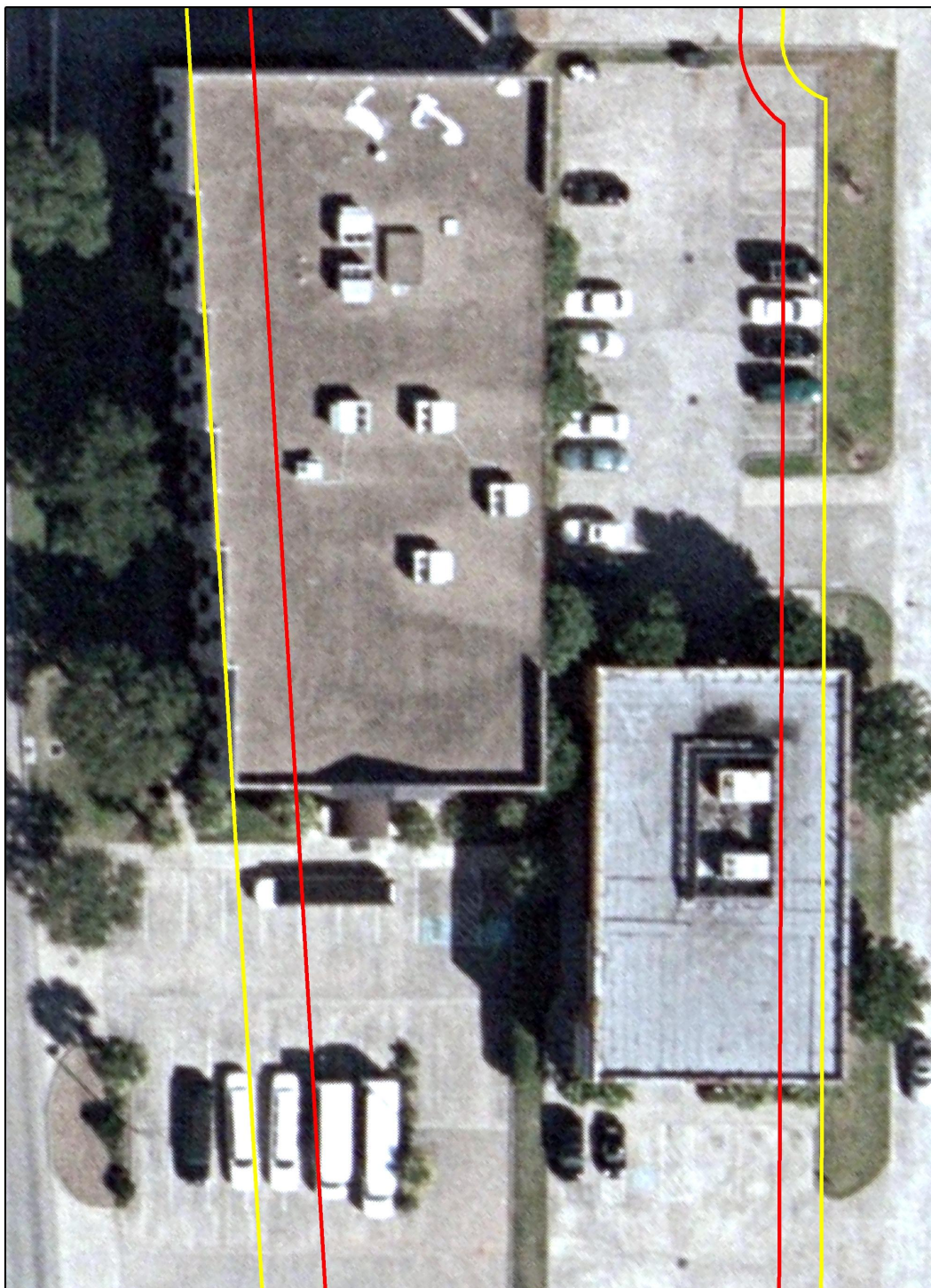


Zoning/Property Lines Exhibit:





Aerial Photograph w/ Setbacks:

Aerial Photograph



Legend

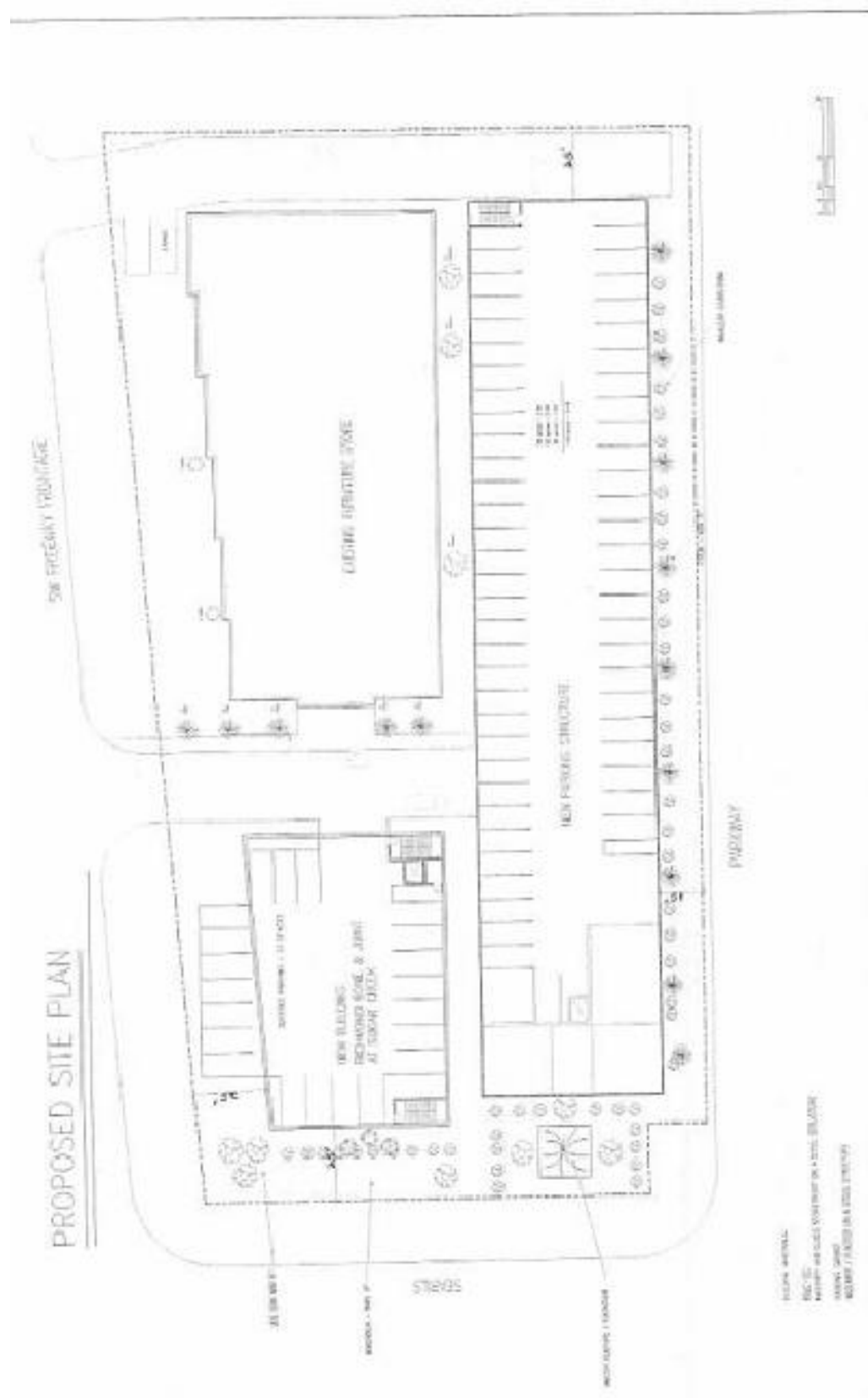
-  original building lines
-  current setbacks

100



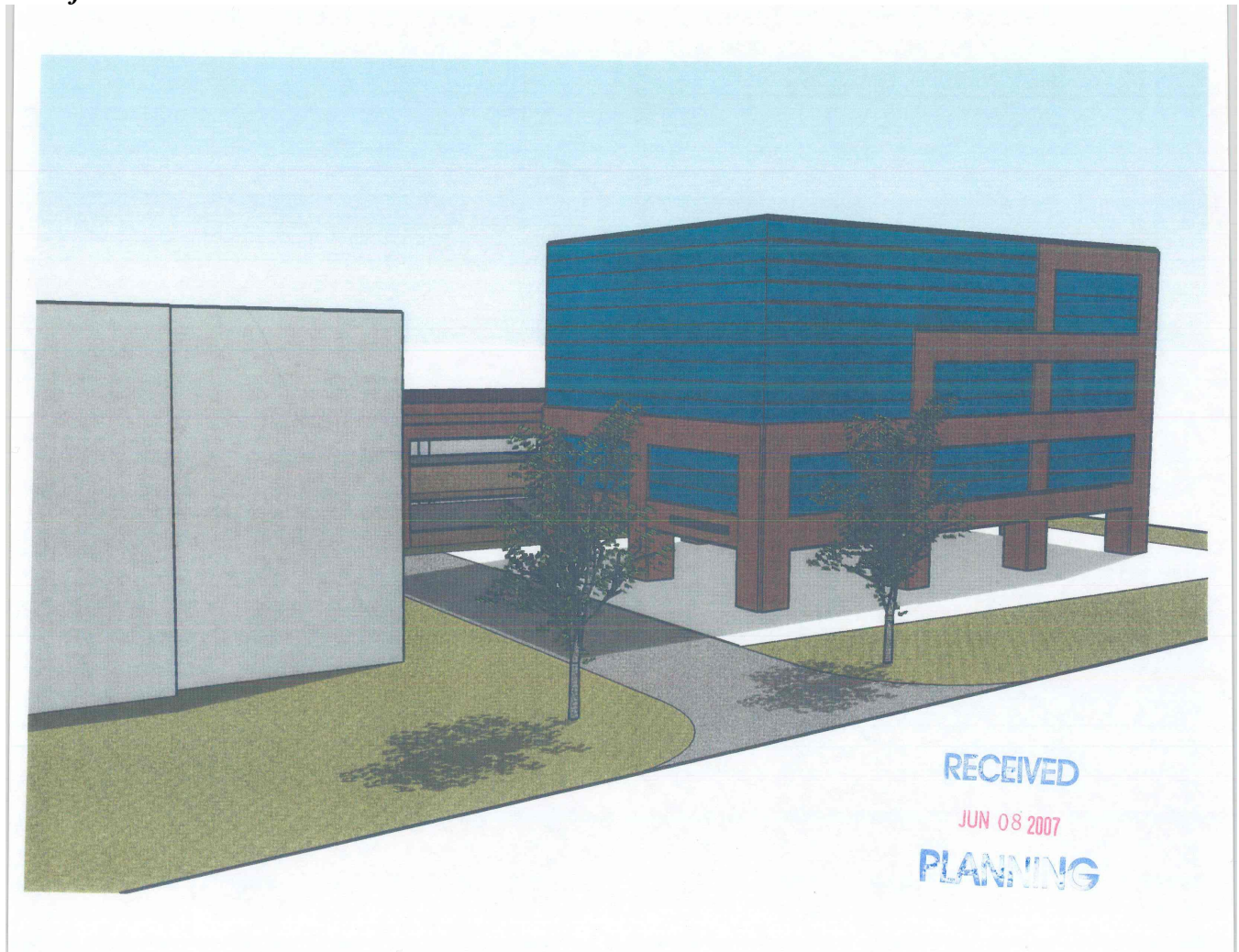
Feet

Proposed Site Plan: (Can be attached as a condition to variance approval)

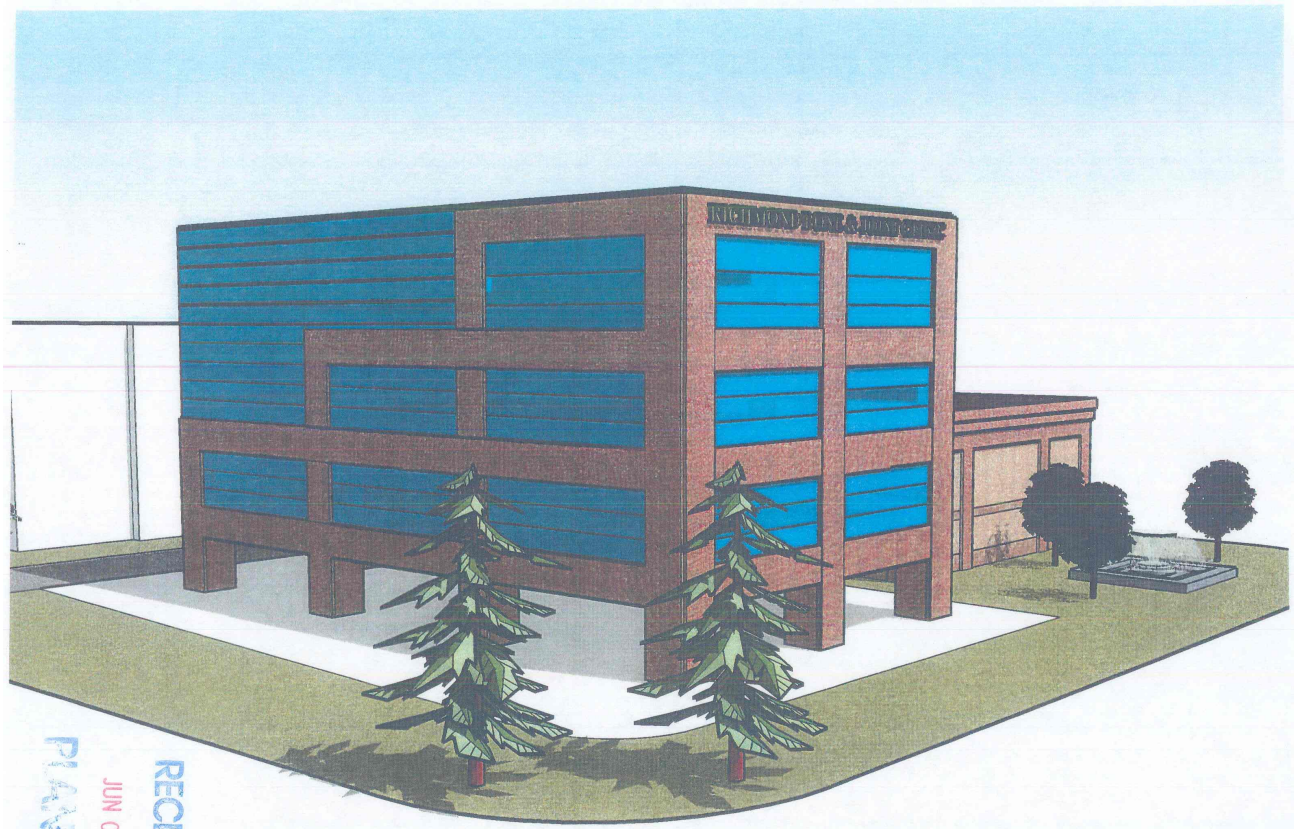


Proposed Elevations

View from 59:



From 59/David Searles intersection:

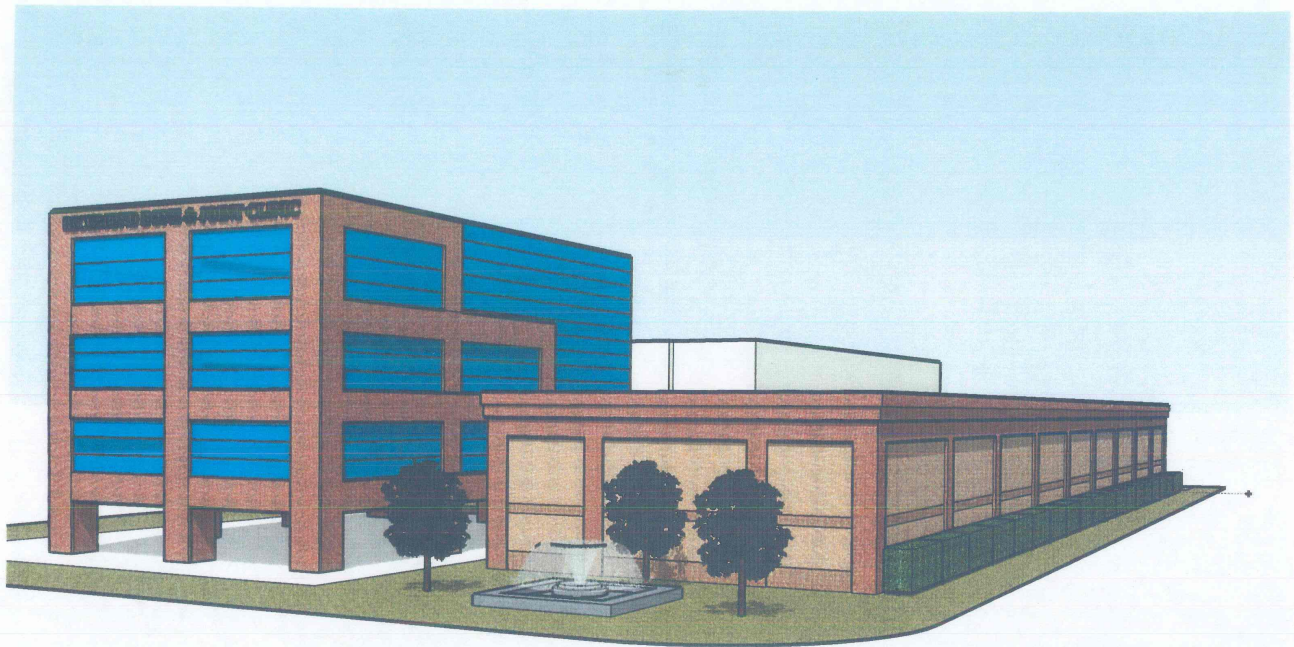


PLANNING

JUN 08 2007

RECEIVED

From David Searles:

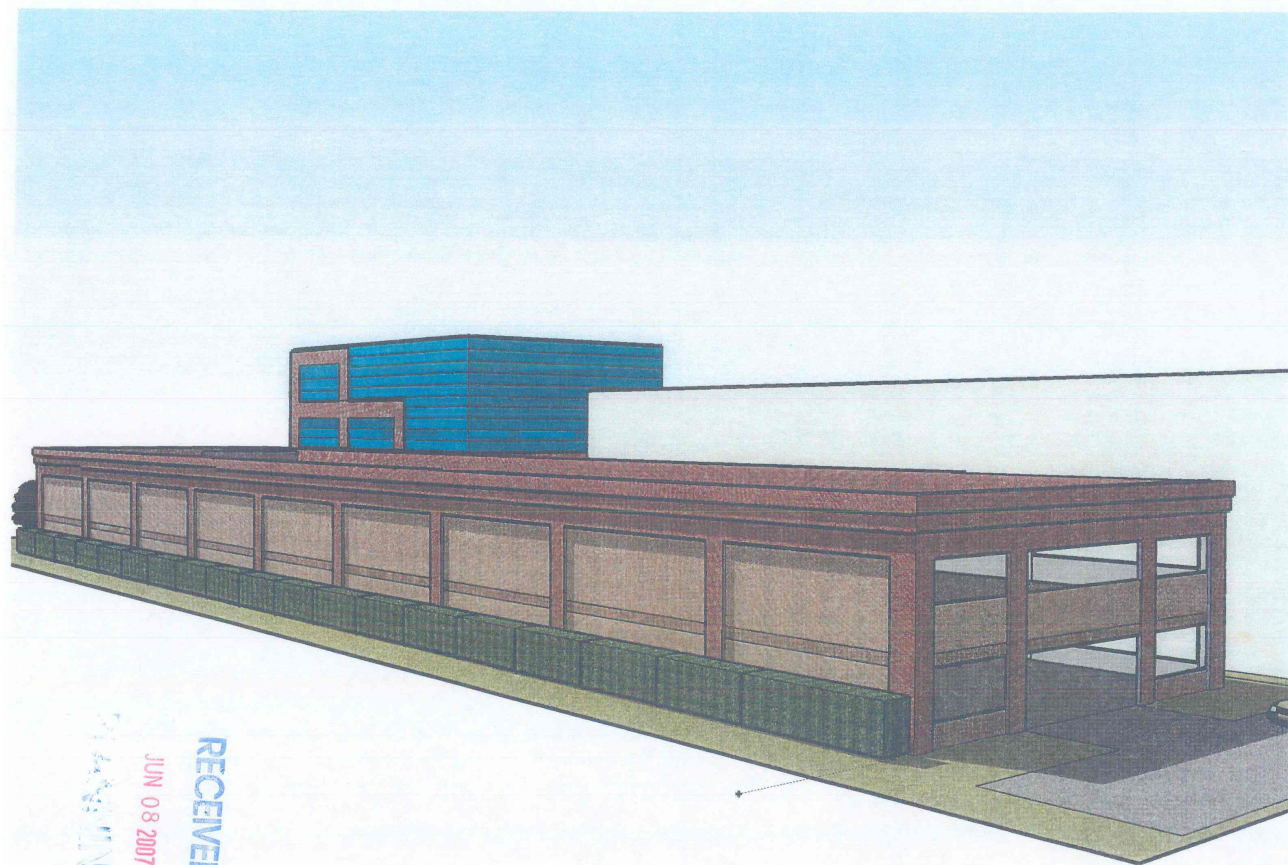


PLANNING

JUN 08 2007

RECEIVED

From S. Parkway:



PLANNING

JUN 08 2007

RECEIVED

Site Photos:

15035 Southwest Fwy:



15035 Southwest Fwy/1605 S. Parkway:



1605 S. Parkway from across street:



Rear of 1605 Parkway site:



Recorded Plat:[illegible]

Metes and Bounds Description:

EXHIBIT "A" Legal Description

Being a tract of land in the George Brown and Charles Belknap Survey, Abstract No. 15, Fort Bend County, Texas, and being that land conveyed by Sugar Creek Corporation to Gulfand Title Company as described in deed recorded in Volume 865, page 720 of the Fort Bend County Deed Records and being more particularly described by metes and bounds as follows with all bearings based on said deed:

BEGINNING at a 5/8 inch iron rod found marking the intersection of the northwesterly right-of-way line of South Parkway Boulevard, 50.00 feet wide at this point as per the plat of Brittan At Sugar Creek recorded in Slide No. 7958 of the Fort Bend County Plat Records with the northeasterly right-of-way line of Searls Drive as per instrument recorded in Volume 17, Page 14 of the Fort Bend County Deed Records and being the easterly south corner of the herein described tract;

THENCE along the northeasterly right-of-way line of said Searls Drive, N 47° 09' 00" W, 20.41 feet to the north corner of said Searls Drive as per said instrument and an "ell" corner of the herein described tract;

THENCE along the northwesterly right-of-way line of said Searls Drive, S 42° 51' 00" W, 24.50 feet to a 3/4 inch iron rod found marking the easterly southeast corner of Searls Drive as per said plat and the westerly south corner of the herein described tract;

THENCE along the northeasterly right-of-way line of Searls Drive as per said plat N 47° 09' 00" W, 64.09 feet to a 3/4 inch iron rod found marking the south corner of Reserve "A" of said plat and the west corner of the herein described tract;

THENCE along the southeasterly line of said Reserve "A", N 42° 51' 00" E, 344.00 feet to a 1/2 inch iron rod found marking an "ell" corner of said Reserve "A" and the north corner of the herein described tract;

THENCE along the easterly southwest line of said Reserve "A", S 47° 09' 00" E, 84.50 feet to a 1/2 inch iron rod found marking the east corner of the herein described tract and a point in the northwesterly right-of-way line of said South Parkway Boulevard;

THENCE along the northwesterly right-of-way line of said South Parkway Boulevard, S 42° 51' 00" W, 319.50 feet to the POINT OF BEGINNING and containing 0.6558 acres, or 28,568 square feet of land, more or less.

RECEIVED

JUN 08 2007

PLANNING

Application:



RECEIVED

JUN 08 2007

PLANNING

**CITY OF SUGAR LAND
ZONING OR SUBDIVISION REGULATION
VARIANCE REQUEST APPLICATION**

Please fill out the following information & return your submittal to the Planning Department, 2700 Town Center Blvd., N., Sugar Land, TX 77479 Attention: Development Review Coordinator

SUBDIVISION / PROJECT NAME:

Nuevo Suspects, L.L.C. (1605 S. Parkway Blvd) – described as George Brown and Charles Belknap Survey, Abstract No. 15, Fort Bend County, Texas, and being that land conveyed by Sugar Creek Corporation to Gulfland Title Company as described in deed recorded in Volume 865, page 720 of the Fort Bend County Deed Records 0.6558 acres.
(Exhibit A – Legal Description attached)

R.O.-West Trust (15035 Southwest Freeway)- described as 0015 BROWN AND BELKNAP, ACRES 0.795, BRITAIN @ SUGAR CREEK, (PT) COMMERCIAL RESERVE "A"

APPLICANT: Nuevo Suspects, L.L.C./ R.O.-West Trust

Address: 1517 Thompson Road, Richmond, TX 77469/ 2727 Southwest Fwy, Houston, TX 77098

Company: Nuevo Suspects, L.L.C.

Phone: 713-501-9473/ 713-874-5200

Fax: 281-277-7101/713-874-5274

Email: jbreeze@pipmed.com / tnoel@noelfurniture.com

OWNER / AGENT:

Contact / Company: Juliet Breeze, M.D./ Nuevo Suspects, L.L.C. and Tod Noel/ R.O.-West Trust

Address: 1517 Thompson Road, Richmond, TX 77469/ 2727 Southwest Fwy, Houston, TX 77098

Phone: 713-501-9473/ 713-874-5200

Fax: 281-277-7101/713-874-5274

Email: jbreeze@pipmed.com

Type of Variance: (check one) ☒ **Zoning** ☐ **Subdivision Regulations**

Section of Ordinance from which variance is being sought: Section 2-125

Variance Justification:

Special Circumstances: These two properties were platted in 1985 (see attached Plat). The improvements on the properties were constructed in 1980 on 1605 S. Parkway Blvd and 1985 on 15035 Southwest Freeway and were grandfathered with the setbacks of 25' on the Southwest Freeway side and 15' on the S. Parkway Blvd side as was then permitted under applicable regulations (see survey attached). The properties were annexed into the City of Sugar Land in 1985. At that time, the properties became zoned as Business/Office and a 40' setback on the Southwest Freeway side and a 25' setback on the S. Parkway Blvd side were imposed under that zoning classification (even though the existing structures and parking were not in compliance).

Strict application of the 40' and 25' setbacks of the Business/Office zoning regulations deprive the owners of the reasonable use of these properties commensurate with other properties in the Business/Office zoning district. A vast majority of all properties adjacent are commercial reserves which are larger. These two properties appear to have been split from one reserve and are clearly narrower than other properties. On Mr. Noel's property, 15035 Southwest Freeway, Sugar Land, Texas 77478, the building has been restricted for use only as a furniture store due to the lack of available parking. Currently, only 40 spaces exist on that lot. The number of parking spaces does not meet any current regulations. Mr. Noel attempted to rectify this parking shortage by proposing to build a parking structure. However, the strict application of the 40' setback would result in an area too small to accommodate a parking structure due to the space requirements of ramps and turning radius.

Nuevo Suspects, L.L.C. purchased their property to be used for an orthopedic clinic and office space. At the time of sale, N.S. was provided with a survey demonstrating the pre-annexation set-backs. When evaluating whether to re-position a building on the property to provide all front-of-building parking for it's handicapped and temporarily disabled patient population, it was discovered that the new set-backs were in place that preclude construction of a new structure on that property more than 40 feet deep which would be inadequate for a commercial user and inconsistent with general intent and spirit of the zoning regulations.

Due to their similar situation, Juliet Breeze, on behalf of Nuevo Suspects, L.L.C. and Tod Noel have come together to propose a combined use of their properties that relieves the present hardships and creates a more aesthetically acceptable solution.

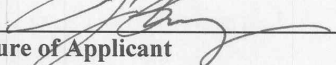
They are proposing subdividing Mr. Noel's property to allow Nuevo Suspects to place a building on his current parking area then demolishing the current building on Nuevo Suspect's property and replacing it with a joint-ventured parking garage that can provide all the parking necessary for both buildings in a three story structure. In order to make this new configuration work however, the owners still need to request a variance from the current set-backs of 40' on the Southwest Freeway side and 25' on the S. Parkway Blvd side to 25' on the Southwest Freeway side and 15' on the S. Parkway Blvd. side.

Public Welfare: Not only is this proposal not injurious to the district or neighborhood, but it is a vast improvement in both looks and tenant quality for the area. Aside from that, the owners plan to create medical office space in Mr. Noel's building that will bring additional healthcare services to the area. The owners plan to provide security features in the parking garage and direct traffic towards the freeway feeder instead of using South Parkway as an entrance/exit for this complex. The proposed construction would not have a negative effect on adjacent properties as it will not encroach on the zoning setbacks any more than the existing structures.

Necessity: As explained in the special circumstances section, this variance is necessary for the reasonable use of the land. Without it, the current structures would have to remain, the use of the structures and the land would be unreasonably restricted, and no improvement to the site would be feasible. The requested variance is the minimum necessary to allow for reasonable use of the land. Given the shape of the piece of land, the setbacks do not really apply well and it is difficult to provide a viable building.

Reasonable Alternatives: Prior to requesting a setback variance, the applicants consulted two different architects regarding space planning and neither could not make the site work with the existing restrictions.

This is to certify that the information on this form is complete, true, and correct and the undersigned is authorized to make this application.

X  Date: 5/24/2007
Signature of Applicant

SUBMITTAL REQUIREMENTS: (Zoning)

- THREE (3) copies of Application
- Submittal Fee: \$500 (non-refundable)
- THREE (3) copies of site plan or plot plan or plat, including vicinity map
- Address of property owners located within 200 feet

SUBMITTAL REQUIREMENTS: (Subdivision Regs)

- THREE (3) copies of Application
- Submittal Fee: \$500 (non-refundable)
- THREE (3) copies of site sketch or plat, including vicinity map

This is to certify that the information on this form is complete, true, and correct and the undersigned is authorized to make this application.

SUBMITTAL REQUIREMENTS: (Zoning)

- **THREE (3) copies of Application**
- **Submittal Fee: \$500 (non-refundable)**
- **THREE (3) copies of site plan or plot plan or plat, including vicinity map**
- **Address of property owners located within 200 feet**

SUBMITTAL REQUIREMENTS: (Subdivision Regs)

- **THREE (3) copies of Application**
- **Submittal Fee: \$500 (non-refundable)**
- **THREE (3) copies of site sketch or plat, including vicinity map**

NOTICE OF PUBLIC HEARING

**APPLICATION FOR VARIANCES TO THE REQUIRED SETBACKS ALONG U.S. 59 AND
SOUTH PARKWAY BOULEVARD FOR PROPERTY LOCATED AT 15035 SOUTHWEST
FREEWAY AND AT 1605 SOUTH PARKWAY**

**PROPERTY IS FURTHER DESCRIBED AS RESERVE "A" OF BRITTAIN AT SUGAR
CREEK AND 0.6558 ACRES TO THE IMMEDIATE SOUTHEAST IN THE BROWN AND
BELKNAP SURVEY, ABSTRACT NO. 15,
FORT BEND COUNTY, TEXAS**

PURPOSE: One (1) public hearing shall be held at which all persons interested in the proposed variance shall be given an opportunity to be heard.

WHERE: CITY OF SUGAR LAND CITY COUNCIL CHAMBER
CITY HALL
2700 TOWN CENTER BOULEVARD NORTH
SUGAR LAND, TEXAS

WHEN: CITY OF SUGAR LAND
ZONING BOARD OF ADJUSTMENT
AUGUST 1st, 2007, 5:00 PM

**DETAILS OF THE PROPOSED ZONING VARIANCES MAY BE OBTAINED BY
CONTACTING THE CITY OF SUGAR LAND PLANNING OFFICE AT (281) 275-2218 OR BY
EMAIL AT PLANNING@SUGARLANDTX.GOV. THE PLANNING OFFICE IS OPEN
MONDAY THROUGH FRIDAY FROM 8:00 O'CLOCK A.M. TO 5:00 O'CLOCK P.M., AND IS
LOCATED AT CITY HALL, 2700 TOWN CENTER BOULEVARD NORTH, SUGAR LAND,
TEXAS. PLEASE CONTACT US IF YOU WISH TO SET UP AN APPOINTMENT TO GO
OVER ADDITIONAL DETAILS IN PERSON.**